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10/031,028	05/07/2002	Norihiro Tsuchiya	MAT-8217US	4557

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EXAMINER

TILL, TERRENCE R

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 02/10/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/031,028

Applicant(s)

TSUCHIYA ET AL.

Examiner

Terrence R. Till

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5, 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-11 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: On page 22, lines 15-16, "does not including" should be --does not include--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 14 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. In the specification, applicant recites a safety device 87 that operates if the rotary brush is locked up upon being caught by an end of carpet. There is no description as to how it works or what it is. It is presumed to be some type of electrical overload circuit, but of exactly what construction?

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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7. In claim 15, applicant recites a rotary brush compartment having a recess formed therein including a rotary brush, a dust collection box unit *installed in said recess* and wherein a passage for sending exhaust from said blower into said rotary brush compartment is formed *in said recess*. How can this “recess” hold the rotary brush, the dust collection box unit and accommodate a passage for sending exhaust. The description does not appear to support the claim as recited.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 5, 10 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Melito et al. ‘285 (cited in IDS).

10. See figures 2, 3 and 7.

11. Claims 6 and 15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Tokyo Cosmos Electric (cited in IDS).

12. With respect to claim 6, the patent to Tokyo Cosmos Electric is considered to disclose all of the claimed recitations. With respect to claim 15, Cosmos Electric is considered to disclose

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all the claim limitations, as best understood. It is considered that the recess is the interior of the nozzle and that the recess, or interior, houses all the components.

13. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Bhagwat et al.

14. Bhagwat et al. discloses a vacuum cleaner (see figs. 1 and 2) 10 comprising: a nozzle section 12; a handle 14 coupled to said nozzle section; a blower 22,26; a dust collection box unit 32; a rotary brush 18, said blower, said dust collection box unit, and said rotary brush being working elements; and a battery "B" for said blower, wherein said battery and said blower are disposed at right and left sides of said nozzle section, respectively.

15. Claim 8 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Brickner et al. '168.

16. See figure 6.

17. Claim 9 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hug.

18. Claims 6, 16 and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kato et al.

### ***Claim Rejections - 35 USC § 103***

19. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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20. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

21. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Melito et al. '285.

22. The patent to Melito et al. discloses the claimed invention except for wherein said dust suction port is formed at a side of said rotary brush compartment, and wherein said belt is disposed at an opposite side to said side of said rotary brush compartment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dust suction port to place it at a side of said rotary brush compartment, opposite the belt drive, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

***Allowable Subject Matter***

23. Claims 3-5, 12 and 13 are allowed.

24. Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

25. Claim 14 is free of the prior art.

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26. The following is an examiner's statement of reasons for allowance: With respect to claim 3, the prior art does not disclose nor render obvious the claimed combination of subject matter of a vacuum cleaner comprising; a blower; a rotary brush for sweeping a dust particle; a belt for transmitting a driving force from said blower or other motor to said rotary brush; and a belt compartment accommodating said belt, being used as an exhaust passage for passing exhaust from said blower. With respect to claim 4, the prior art does not disclose nor render obvious the claimed combination of subject matter of a vacuum cleaner comprising: a nozzle section; a handle coupled to said nozzle section; a blower; a dust collection box unit, said blower and said dust collection box unit being working elements; and a rotary brush for sweeping a dust particle, being accommodated in said nozzle section, wherein said dust collection unit is detachably disposed at an opening provided at a side of said nozzle section. With respect to claim 12, the prior art does not disclose nor render obvious the claimed combination of subject matter of a vacuum cleaner comprising: a nozzle section crawling on a floor; a blower; a rotary brush for sweeping a dust particle; a dust collection unit including; a dust collection box; and a filter unit detachably fitting to said dust collection box; a belt for transmitting rotation of said blower to said rotary brush, being disposed in said nozzle section; and a grip provided at a side of said dust collection box, said side being opposite to said belt. With respect to claim 13, the prior art does not disclose nor render obvious the claimed combination of subject matter of a vacuum cleaner comprising: a nozzle section crawling on a floor; a blower; a rotary brush for sweeping a dust particle; a dust collection box unit including: a dust collection box having a grip at a side thereof; and a filter unit detachably fitting to said dust collection box; and a belt for transmitting rotation of said blower to said rotary brush, being disposed in said nozzle section, wherein said dust

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collection box unit is freely drawn out of and put in an opening provided at a side of said nozzle section, and wherein said grip of said dust collection box is shaped along an appearance shape.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Worwag, Sudou et al., Leinfelt, Carson, Koch, Brickner et al., '920, McGee, Japanese patents to Okubo and Maeda et al., and UK patent to Day show the current state of the art in vacuums and filtering arrangements.

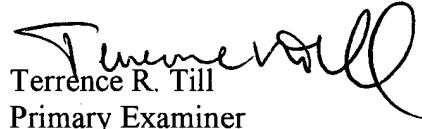
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Terrence R. Till  
Primary Examiner  
Art Unit 1744

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